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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,299	12/16/2003	Isaac D. White	BEI-0039US	7666
49584	7590	01/17/2007	EXAMINER	
LEE & HAYES, PLLC 421 W. RIVERSIDE AVE. SUITE 500 SPOKANE, WA 99201			LE, TAN	
			ART UNIT	PAPER NUMBER
			3632	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/17/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/737,299

Applicant(s)

WHITE ET AL.

Examiner

Tan Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 10-24 is/are pending in the application.
- 4a) Of the above claim(s) 2,4,17 and 20-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3, 5-8,10-16,18 and 19 is/are rejected.
- 7) ☒ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Applicant's amendment filed 10/30/06 is acknowledged. Claims 1-8 and 10-24 are pending. Claim 9 has been canceled. Claims 2, 4, 17 and 20-24 were withdrawn.

#### ***Claim Objections***

2. Claims 1 and 19 are objected to because it is not known what the "one mechanical drive mechanism" does. Its function is not known. Appropriate correction is required.

Claims 3, 5, 19 are also objected to because there is no antecedent for "the attachment surface" in these claims.

Claim 12 is also objected to because claim 12 is redundant to claim 1.

#### ***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3, 5-8, 10-16 and 18-19 are under 35 U.S.C. 103(a) as being unpatentable over AU Patent No. 200223231 to Nagle in view of US Patent No. 6,158,555 to Brown, Jr.

As to claims 1, 6-8, 10-16 and 18-19, Nagle teaches a telescopic support pole for supporting a cable above the ground or floor at construction sites and in factories comprising a base (19); at least one segment (25) connected to the base; at least

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second segment (12, 14) connected to the first section; a cable receptacle (28) attached to an end portion of one of the segment; the cable receptacle having a generally U-shaped cross-section for receiving cable.

The Nagle device differs from claims 1 and 19 of the present invention is that it is not provided with a control system operative associated with the cable wherein the control system is configured for receiving instructions communicated through at least one communication media, and at least one mechanical driving mechanism such as "gears, chains, belts, ball bearings, and/or other like components" (Applicant's specification, page 8, [0024]) operatively coupled to respond the control system to enable the telescoping action.

Brown Jr. teaches the concept of such, ( Brown, Jr. teaches the control system generally in a control panel 16 which is mounted to the exterior surface of the vehicle and control the extension and retraction of the mast 4 through drive mechanism (not shown)) –it would have been obvious to one of ordinary skill in the art at the time the invention to provide a control system operative associated with the cable wherein the control system is configured for receiving instructions communicated through at least one communication media, and at least one mechanical driving mechanism operatively coupled to respond the control system to enable the telescoping action on the Nagle telescopic support pole as taught by Brown Jr. in order to allow the user to control the telescopic action through wireless medium to a computer system which instructs the driving mechanism to extend the telescoping segments so that the height of the pole can be automatically adjusted depending the conditions of use.

Nonetheless, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an automatic control means which in this case a control system operatively associated with the telescopic segments of the pole or mass and the mechanical driving mechanism operatively coupled to respond to the control system to enable the telescopic action, since it has been held that broadly providing a mechanical or automatic means to replace manual activity, which has accomplished the same result involves only routine skill in the art. In re Venner, 120 USPQ 192.

As to claims 3 and 5, Nagle in view of Brown Jr. does not appear to specifically teach the base including at least one attachment device for attachment of the base to an attachment surface and removably attached to the surface as recited in claims 3 and 5. It's noted however, the fact that Nagle's device although just sits on the floor but Nagle's device was holding down by gravity force and thus one could argue that Nagle's device was attached on the floor by the force of gravity. This would also then be removably attached thus meeting claims 3 & 5.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1, 3, 5-8, 10-16 and 18-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

This action is made NON-Final

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818.


The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RL

Tan le  
December 28, 2006.

  
**Carl D. Friedman**  
Supervisory Patent Examiner  
Group 3600

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